

FILED  
SCRANTON

FEB 19 2013

Shane Rosser #56981-019

Name and Prisoner/Booking Number

U.S.P. Canaan

Place of Confinement

P.O. Box 300

Mailing Address

Waymart, P.A. 184721

City, State, Zip Code

PER M.C.  
DEPUTY CLERK

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF

Shane Rosser

(Full Name of Plaintiff)

Plaintiff,

vs.

(1) United States of America

(Full Name of Defendant)

(2)

(3)

(4)

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO.

(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT  
BY A PRISONER

- ☒ Original Complaint  
☐ First Amended Complaint  
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☒ Other: FTCA under title 28 U.S.C. 2671 thru 2679

2. Institution/city where violation occurred: U.S.P. Canaan - Waymart, P.A.

550/55

### B. DEFENDANTS

1. Name of first Defendant: United States of America. The first Defendant is employed as:  
Federal employee at U.S.P. Canaan.  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_ The second Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_ The third Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_ The fourth Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

### C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☒ No
2. If yes, how many lawsuits have you filed? N/A. Describe the previous lawsuits:

a. First prior lawsuit:

1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
2. Court and case number: \_\_\_\_\_
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

b. Second prior lawsuit:

1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
2. Court and case number: \_\_\_\_\_
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

c. Third prior lawsuit:

1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
2. Court and case number: \_\_\_\_\_
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

## D. CAUSE OF ACTION

## COUNT I

1. State the constitutional or other federal civil right that was violated: The negligent acts and/or omissions of a U.S. employee, caused me sickness, pain and suffering.
2. Count I. Identify the issue involved. Check only one. State additional issues in separate counts.
 

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input checked="" type="checkbox"/> Other: <u>Specifically, being served food that was unfit to eat containing (Salmonella).</u>	
3. Supporting Facts. State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.
 

On or about June 25, 2011, the plaintiff along with other inmates not mentioned here went to mainline in the evening to eat the meal being served (chicken fajitas). This chicken was spoiled and contaminated with "Salmonella". Plaintiff ingested the Salmonella bacterial poisoning by way of consumption of the chicken fajitas.

The very next day in the morning, the plaintiff along with several inmates began to suffer excruciating pain and symptoms which included but were limited to severe headache's, diarrhea, abdominal pains, nausea, chills, vomiting, inability to eat, and profuse sweating.

Later, after the prison was locked down due to the number of inmates that fell ill, it was suspected that the sickness was due to something that was consumed in the inmate dining room.

It has since been confirmed and this court is familiar with, that the cause of this mass illness was due to Salmonella from the chicken served on June 25, 2011.
4. Injury. State how you were injured by the actions or inactions of the Defendant(s).
 

\_\_\_\_\_

\_\_\_\_\_
5. Administrative Remedies:
  - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
  - b. Did you submit a request for administrative relief on Count I? ☒ Yes ☐ No
  - c. Did you appeal your request for relief on Count I to the highest level? ☒ Yes ☐ No
  - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

\*\*\*\*Tort claim (SF-95 form) to the regional office was filed and serves as exhaustion.\*\*\*\*\*

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

Plaintiff is seeking monetary damages for the illness he suffered, so therefore he request specific damages pursuant to 28 U.S.C. 2675[B] and 28 C.F.R 142 from the agency responsible for the Salmonella poisoning, staff negligence, and deliberate refusal to treat plaintiff for symptoms.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 25, 2013  
DATE

Shane Rosser  
SIGNATURE OF PLAINTIFF

N/A

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

N/A

(Signature of attorney, if any)

(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.